

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

BRIAN MICHAEL DAVIS,

Plaintiff,

v.

FRANKLIN COUNTY JAIL, et al.,

Defendants.

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No. 4:21-CV-1135-JAR

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. Plaintiff, an inmate at the Franklin County Detention Center, initiated this civil action on September 20, 2021 by filing a Prisoner Civil Rights Complaint Under 42 U.S.C. § 1983 against the Franklin County Jail, and a doctor. He filed a motion seeking leave to proceed *in forma pauperis*. The Court granted the motion and reviewed the complaint pursuant to 28 U.S.C. § 1915(e)(2), and determined that it was defective and subject to dismissal. On December 9, 2021, the Court entered an order giving plaintiff the opportunity to file an amended complaint to cure the defects. In that order, the Court clearly explained why the complaint was subject to dismissal, gave plaintiff clear instructions about how to prepare the amended complaint, and cautioned him that his failure to timely comply with the order would result in the dismissal of his case without prejudice and without further notice.

Plaintiff's response was due to the Court on January 9, 2022. To date, however, he has neither complied with the Court's order, nor sought additional time to do so. The Court gave plaintiff meaningful notice of what was expected, cautioned him that his case would be dismissed if he failed to timely comply, and gave him significant additional time to comply. Therefore, this action will be dismissed without prejudice due to plaintiff's failure to comply

with this Court's December 9, 2021 order and his failure to prosecute his case. *See* Fed. R. Civ. P. 41(b); *see also Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order); *Dudley v. Miles*, 597 F. App'x 392 (8th Cir. 2015) (per curiam) (affirming dismissal without prejudice where *pro se* plaintiff failed to file an amended complaint despite being cautioned that dismissal could result from failure to do so). This dismissal will not count as a "strike" for purposes of 28 U.S.C. § 1915(g).

Accordingly,

IT IS HEREBY ORDERED that this case is **DISMISSED without prejudice**. A separate order of dismissal will be entered herewith.

IT IS HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith.

Dated this 31st day of January, 2022.

A handwritten signature in cursive script, reading "John A. Ross", is written over a horizontal line.

JOHN A. ROSS
UNITED STATES DISTRICT JUDGE